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9
10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF WASHINGTON
12

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 ALDER GOLD-COPPER COMPANY

17 Defendant.

CIVIL ACTION NO.: CV-07-255-EFS

COMPLAINT ON BEHALF OF
THE UNITED STATES OF
AMERICA, PLAINTIFF

18 CIVIL COMPLAINT

19 Plaintiff, the United States of America, by authority of the Attorney General of the
20 United States and at the request of the Administrator of the United States Environmental
21 Protection Agency (EPA), files this complaint and alleges as follows:
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24 INTRODUCTION
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26 2. This is a civil action brought pursuant to Sections 107 and 113(g) of the
27 Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C.
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1 §§ 9607 and 9613(g), as amended by the Superfund Amendments and Reauthorization Act of
2 1986 ("CERCLA"). The United States seeks the recovery, pursuant to Section 107(a) of
3 CERCLA, 42 U.S.C. § 9607(a), of unreimbursed response costs incurred in response to releases
4 and threatened releases of hazardous substances into the environment at and from the Alder Mill
5 Site in Okanogan County, Washington. The United States also seeks a declaratory judgment
6 pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), holding the defendant liable
7 for all future response costs that will be binding in any subsequent action or actions to recover
8 further response costs incurred by the United States or the State at or in connection with Alder
9 Mill Site.
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12 3. Alder Gold – Copper Company owns the Alder Mill Site and has owned it since
13 at least 1949. As a result of mining and concentrating operations conducted by Alder Gold –
14 Copper Company, the property which it owns and on which it operated, as well as adjoining
15 properties, are contaminated with hazardous substances including arsenic, copper, and lead. This
16 contaminated property, referred to herein as the "Site," includes, but is not limited to, the two
17 parcels of property known as Parcel #3322170148 (33-22-17) TAX 148 PT SW SW and Parcel #
18 3322182002 (33-22-18 SE SE) located in Okanogan County, Washington. The Site also
19 encompasses any other areas where hazardous substances released from those parcels have come
20 to be located.
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23 JURISDICTION AND VENUE

24 4. This Court has jurisdiction over the subject matter of this action pursuant to
25 Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. §§ 1331 and 1345.
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1 Venue is proper in this district pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and
2 28 U.S.C. § 1391(b) and (c) because the claims arose and the threatened and actual releases of
3 hazardous substances occurred in this district.
4

5 **DEFENDANTS**

6 5. At times relevant hereto, defendant Alder Gold-Copper Company has owned
7 and/or operated a facility at the Site, within the meaning of sections 107(a)(1) and (a)(2) of
8 CERCLA, 42 U.S.C. §§ 9607(a)(1) and (a)(2).
9

10 6. Defendant Alder Gold – Copper Company is a corporation organized and existing
11 pursuant to the laws of the State of Washington.

12 **GENERAL ALLEGATIONS**

13 7. The Alder Mill Site is located in Okanogan County, Washington and was the site
14 of a former mining and concentrating operation.
15

16 8. At relevant times, Alder Gold – Copper Company operated a mine and
17 concentrating plant that processed the ore. As a result of these operations, Alder Gold – Copper
18 Company disposed of tailings and waste rock containing metals, including arsenic, cadmium,
19 lead, and zinck.
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21 9. The contamination present at the Site is attributable to the operations of Alder
22 Gold – Copper Company.

23 10. There were and are "releases," as defined at Section 101(22) of CERCLA, 42
24 U.S.C. § 9601(22), and the threat of continuing releases, of "hazardous substances," as defined in
25 Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), into the environment at the Site.
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27 11. The releases and threatened releases of hazardous substances at the Site caused
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1 the United States to incur costs of "response" within the meaning of Section 101(25) of
2 CERCLA, 42 U.S.C. § 9601(25).

3 12. The Site is a "facility" within the meaning of Section 101(9) of CERCLA, 42
4 U.S.C. § 9601(9).

6 **CLAIM FOR RELIEF**

7 13. The preceding allegations are included in this claim for relief.

8 14. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides that,
9
10 “[n]otwithstanding any other provision or rule of law, and subject only” to the statutorily defined
11 defenses “the owner or operator of a vessel or a facility . . . shall be liable for . . . all costs of
12 removal or remedial action incurred by the United States Government or a State or an Indian
13 tribe not inconsistent with the national contingency plan”

14 15. Alder Gold – Copper Company is a "person" within the meaning of Section
15 101(21) of CERCLA, 42 U.S.C. § 9601(21), and an “owner or operator” of a facility within the
16 meaning of Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

17 16. The United States has incurred response costs in connection with response actions
18 at the Site, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604. The United States continues
19 to incur response costs, including enforcement costs associated with the recovery of funds
20 expended in response to the releases and threatened releases of hazardous substances at the Site.

21 17. The response actions taken and the response costs incurred by the United States at
22 the Site are not inconsistent with the National Contingency Plan, 40 C.F.R. Part 300.
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18. Alder Gold – Copper Company is liable to the United States under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for all response costs incurred by the United States in connection with the Site.

REQUEST FOR RELIEF

WHEREFORE, the United States respectfully requests that the Court:

1. Enter judgment against Alder Gold – Copper Company for all response costs incurred by the United States in connection with the Site;
2. Enter a declaratory judgment of liability against Alder Gold – Copper Company that will be binding in any action to recover further response costs incurred by the United States in connection with the Site;
3. Award the United States its costs in this action; and
4. Grant such other and further relief as is appropriate.

Respectfully submitted,

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